

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
MONROE DIVISION**

KELLY GUERRERO

CASE NO. 3:22-CV-03889

VERSUS

JUDGE JAMES D. CAIN, JR.

DOVER BAY SPECIALTY INSURANCE **MAGISTRATE JUDGE KAY
CO ET AL**

JUDGMENT

Before the court is a Report and Recommendation of the Magistrate Judge, recommending a sanction of \$100 against respondent Grant Gardiner for his violations of Federal Rule of Civil Procedure 11(b) based on his representation of plaintiff. These violations occurred while respondent was employed as an attorney with the firm McClenney, Moseley & Associates, PLLC (“MMA”). Based on a de novo review of the record, the court agrees that the sanction should be imposed. Rule 11(c) provides, however, that “[a]bsent exceptional circumstances, a law firm must be held jointly responsible for a violation committed by its partner, associate, or employee.” Fed. R. Civ. P. 11(c)(1). The court must therefore determine whether the firm should be held jointly liable with Mr. Gardiner.

After respondent advised the court that he was no longer associated with the MMA firm, the court issued an order transferring to MMA and its principal Zach Moseley the responsibility to produce certain file materials relevant to the show cause hearing held before the Magistrate Judge on June 14, 2023. MMA therefore had actual notice of the

hearing, an opportunity to respond, and in fact provided responsive documents ahead of the hearing. There is no basis in the record to suggest exceptional circumstances that would relieve the firm of joint responsibility for respondent's actions. To the contrary, the file materials submitted by MMA indicate a systemic lack of attention to verifying that "the factual contentions have evidentiary support or, [. . .] will likely have evidentiary support," as required by Rule 11(b)(3). Considering these factors, the court finds that MMA must be held jointly liable for the violation committed by its former employee. Accordingly,

IT IS ORDERED, ADJUDGED, and DECREED that the Report and Recommendation be **ADOPTED**, subject to the modification described above. Grant Gardiner and McClenney Moseley & Associates, PLLC are thus jointly sanctioned in the amount of \$100.00, to be deposited with the registry of the court. Payment must be completed by December 1, 2023.

The clerk is directed to mail a copy of this judgment to plaintiff at the address provided by MMA and on file with the court.

THUS DONE AND SIGNED in Chambers on this 11th day of July, 2023.



JAMES D. CAIN, JR.
UNITED STATES DISTRICT JUDGE